

MICHAEL MARKS 1/21/2021

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1 IN THE UNITED STATES DISTRICT COURT
2 EASTERN DISTRICT OF MISSOURI
3 EASTERN DIVISION
4 DEREK LANEY,
5 Plaintiff,
6 vs. Case No. 4:18-CV-1575-CDP
7
8 CITY OF SAINT LOUIS, etc., et al.,
9 Defendants.

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VIDEORECORDED VIDEOCONFERENCED DEPOSITION
OF MICHAEL MARKS
JANUARY 21, 2021

Exhibit C

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1	I N D E X		
2	WITNESSES		
3	All Witnesses:		Page
4	Michael Marks		
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5	Examination by Ms. Dierker		110
6			
7	EXHIBITS		
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14	(The Exhibits 196, 197, 199, 214 and 215 were		
15	retained by Mr. Wyrsh. The original Exhibit 216		
16	was sent electronically to the reporter and copies		
17	will be provided as requested.)		
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8 CITY OF SAINT LOUIS, etc., et al.,
9 Defendants.
10
11 VIDEORECORDED VIDEOCONFERENCED
12 DEPOSITION OF MICHAEL MARKS, produced, sworn, and
13 examined on JANUARY 21, 2021, between the hours of
14 eight o'clock in the forenoon and six o'clock in
15 the afternoon of that day, with all parties
16 appearing remotely, before Tammie A. Heet, a
17 Registered Professional Reporter, Certified
18 Shorthand Reporter and Notary Public within and for
19 the states of Illinois and Missouri, in a certain
20 cause now pending in the United States District
21 Court, Eastern District of Missouri, Eastern
22 Division in re: Derek Laney vs. City of Saint
23 Louis, etc., et al.,; on behalf of the Plaintiff.
24
25

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1 APPEARANCES

2

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1 IT IS HEREBY STIPULATED AND AGREED by
2 and between counsel for the Plaintiff and counsel
3 for the Defendants that this deposition may be
4 taken in shorthand by Tammie A. Heet, RPR, CSR, CCR
5 and notary public, and afterwards transcribed into
6 printing, and signature by the witness expressly
7 reserved.

8 * * * * *

9 THE VIDEOGRAPHER: We're on the
10 record. Today's date is January 21st, 2021, and
11 the time is 1:33 p.m. This is the videorecorded
12 deposition of Michael Marks.

13 The reporter will now read the
14 stipulation and swear in the witness.

15 THE REPORTER: This is Tammie Heet
16 and I am a Certified Court Reporter. This
17 deposition is being taken remotely, with the
18 witness appearing from St. Louis, Missouri.

19 All attorneys understand that I am
20 not physically present with the witness and that I
21 will not be administering the oath in person. The
22 parties and counsel consent to this arrangement and
23 waive any objections to this manner of proceeding.

24 Counsel, please indicate your
25 agreement verbally on the record by stating your

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1 name and that you stipulate to these terms, after
2 which I will swear in the witness and we may begin.

3 MR. WYRSCH: James Wyrsh on behalf
4 of Plaintiff, we stipulate.

5 MS. DIERKER: Catherine Dierker on
6 behalf of Defendant agrees to those terms.

7 * * * * *

8 MICHAEL MARKS,
9 of lawful age, produced, sworn, and examined on
10 behalf of Plaintiff, deposes and says:

11 EXAMINATION

12 QUESTIONS BY MR. WYRSCH:

13 Q. Good afternoon. Can you state your
14 name for the record?

15 A. Mike Marks. Michael Marks.

16 Q. And I'm guessing by your attire that
17 you're still a member of the St. Louis Metropolitan
18 Police Department?

19 A. I am.

20 Q. How long have you been an officer
21 with the department?

22 A. 33 years.

23 Q. How long have you been a sergeant?

24 A. 24.

25 Q. Have you ever been -- were you a

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1 **Q. Why do you say that?**

2 A. I think it would be foolish on the
3 City to announce a verdict of something that could
4 cause potential protests and not have officers on
5 standby.

6 **Q. So you think there was some**
7 **coordination between the court and the police on**
8 **the timing of the verdict?**

9 A. My opinion, yes.

10 **Q. What -- what is the first thing you**
11 **remember about the 15th and your activities that**
12 **day as -- as it relates to the protest?**

13 A. Responding to the area of where the
14 old police headquarters is at -- what is that --
15 Tucker and Clark or Tucker and Market and seeing
16 the crowds of people in the street by the
17 courthouse.

18 **Q. Okay. And what did -- what did --**
19 **the BRT team, what was their role in the beginning?**

20 A. I guess our initial role was just to
21 monitor.

22 **Q. And do you remember where you were**
23 **monitoring from?**

24 A. I do not, sir.

25 **Q. And what do you remember next?**

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1 A. Well, specifically, I remember
2 someone getting on the air -- over our air, saying
3 that they need the bikes to respond to Tucker and
4 Clark to help extract some buses that had CDT team
5 officers on them, that the group of protesters were
6 surrounding the buses, preventing them from
7 leaving.

8 Q. Do you remember who gave that order?

9 A. I do not, sir.

10 Q. And the time that that order came
11 over, what were you doing?

12 A. I do not recall, sir.

13 Q. Do you remember where you were?

14 A. I do not.

15 Q. Okay. Do you remember how you
16 responded?

17 A. Obviously, I responded on my bike,
18 and maybe it was -- I do recall traveling
19 southbound. So we might have been up in the area
20 of Market and Tucker near Firemen's Park, which is
21 on the northwest corner of Tucker and Market. And
22 I remember responding southbound to get to the
23 buses.

24 Q. Okay. At any point do you remember
25 being on Clark east of Tucker?

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1 to the buses --

2 A. Yes.

3 Q. -- and the time that you traveled
4 down Tucker to the point where you actually got to
5 the buses, do you remember anything notable
6 happening?

7 A. I mean, there were groups of crowds
8 that were yelling disparaging remarks at us as we
9 were going by. Just the crowd seemed to be very
10 unruly, agitated. Other than that, no. Nothing
11 specifically.

12 Q. Did anyone in those crowds attempt to
13 impede your ability to get to the buses?

14 A. Oh, yeah. They would stand in our
15 way. They would -- yeah. The typical, "Oh, why do
16 I have to move, this is a public street," that --
17 that type of shenanigans.

18 Q. Let me be -- let me be more specific
19 then. With -- did anyone lock arms and try to stop
20 the bike team from going down Tucker?

21 A. Oh, yeah, they did.

22 Q. How many people?

23 A. Oh, I don't know. There were small
24 groups. You know, there might have been groups of
25 ten doing it and groups of three or four doing it.

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1 I -- I know when I was riding down, we came in --
2 in front of a group of maybe 15 to 20 that had -- I
3 don't know specifically if they were locking arms
4 or holding hands together, but they were obviously
5 trying to prevent our free flow down Tucker.

6 **Q. Where was that?**

7 A. I want to say it was on Tucker
8 probably around -- just north of Clark or in the
9 intersection of Clark. It's hard to recall exactly
10 where.

11 **Q. Okay. Did they actually impede your**
12 **movement?**

13 A. Yes, they did.

14 **Q. For how long?**

15 A. I don't know, sir. Probably -- it
16 seemed like a long time then, but it was probably
17 15 seconds, 10 seconds until some officers were
18 able to break -- break through the line.

19 **Q. All right. And how were they able to**
20 **break through the line?**

21 A. You know, by taking their bikes and
22 ordering the people to separate and taking their
23 bikes and sort of forcing them apart by pushing
24 their bikes through, as I recall.

25 **Q. Okay. But you don't think you were**

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1 we disseminate that information to the officers so
2 the officers are well aware of any policy changes.

3 Q. Okay. How do you disseminate that
4 information?

5 A. Roll call, I'll read the Special
6 Order over to them and ask them if anyone
7 understands and are there any questions. And if I
8 can't answer a question, I'd go to somebody that
9 could.

10 Q. Okay. Do you keep any sort of
11 records of those types of interactions at the roll
12 call?

13 A. Not specifically the roll calls, no,
14 sir. But we do have a use of force policy and
15 pursuit policy that gets reviewed every month.

16 Q. Okay. What is that?

17 A. It's basically you read over the
18 Special Order, and then there's usually a three- to
19 four-question test that follows the test. And you
20 have to successfully pass the test to be certified
21 or -- or to acknowledge that you understood the
22 order and that you -- you reviewed it for the
23 month.

24 Q. And is there -- you said there's
25 information about use of force on that test?

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1 A. There is.

2 Q. Okay. And what kind of subjects do
3 they cover as far as the use of force?

4 A. Well, the Special Order, you're
5 supposed to review it. It covered basically the
6 whole spectrum of the use of force from command
7 presence to verbal commands, all the way up to --
8 through and to include deadly force.

9 Q. So do you remember what the questions
10 were on the last test?

11 A. Somewhat.

12 Q. Okay. What do you remember?

13 A. There was one question that pertains
14 to when use of force is used on a subject, that he
15 has to be offered medical attention if he's
16 arrested. And -- you know, and it's basically true
17 and false and -- and multiple choice.

18 There's one that pertains to the --
19 you know, when a -- when arresting a subject --
20 this is the correct answer. This is what I'm
21 saying that I know. When arresting a subject, an
22 officer should use the least amount of force
23 necessary to effect that arrest. That is one of
24 the answers in a multitude of possible answers. So
25 it's multiple choice. It's true or false, that